

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**REVIEW PETITION (L) NO.9 OF 2016
IN
CONTEMPT PETITION (L) NO.44 OF 2015
IN
CONTEMPT PETITION NO.56 OF 2009
IN
CONTEMPT PETITION NO.15 OF 2008
IN
SUIT NO.1119 OF 2003**

Zakir Ali Gulamali Shaikh And Others .. Petitioners
Versus
Sahida Alias Leela Gulam Ali Shaikh
And Others .. Respondents

**WITH
REVIEW PETITION (L) NO.11 OF 2016
IN
CONTEMPT PETITION (L) NO.44 OF 2015
IN
CONTEMPT PETITION NO.56 OF 2009
IN
CONTEMPT PETITION NO.15 OF 2008
IN
SUIT NO.1119 OF 2003
WITH
CONTEMPT PETITION (L) NO.120 OF 2015**

Hassan Ali Abbas Ali Sandole .. Petitioner
Versus
Sahida Alias Leela Gulam Ali Shaikh And
Others .. Respondents

**WITH
REVIEW PETITION (L) NO.12 OF 2016
IN
CONTEMPT PETITION (L) NO.120 OF 2015
IN**

SUIT NO.1119 OF 2003

Kamrunisa D/o. Gulam Ali Shaikh
And Feroza D/o. Gulam Ali Shaikh .. Petitioners
Versus
Sahida Alias Leela Gulam Ali Shaikh And
Others .. Respondents

**WITH
REVIEW PETITION (L) NO.15 OF 2016
IN
CONTEMPT PETITION (L) NO.44 OF 2015
IN
CONTEMPT PETITION NO.56 OF 2009
IN
CONTEMPT PETITION NO.15 OF 2009
IN
SUIT NO.1119 OF 2003**

Mubarakali Gulamali Shaikh (Sandole) .. Petitioner
Versus
Sahida Alias Leela Gulam Ali Shaikh And
Others .. Respondents

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Mr. Ashok B. Tajane a/w Jayshree Gite for the Petitioners in Review Petition (L) No.9 of 2016.

Mr. Sanjiv Sawant for the Respondents in Review Petition (L) No.9 of 2016.

Ms. Priyanka Chavan a/w Mr. M.G. Shaikh i/b B.J. Sarwade for Respondent No.5 in Review Petition (L) No.9 of 2016.

Mr. Manoj Shukla for the Petitioner in Review Petition (L) No.11 of 2016.

Mr. I.M. Khairdi for the Petitioners in Review Petition (L) No.12 of 2016.

Ms. Priyanka Chavan i/b B.J. Sarwade for the Petitioner in Review Petition (L) No.15 of 2016.

Mr. K.T. Kukreja a/w Mr. Arvind Manghirmadani & Bhumika Gada for Respondent No.2 in all Petitions.

Mrs. Kavita Ambekar, 2nd Assistant to CR a/w Mr. A.B. Kamble, Master (Admin.), CR present.

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CORAM : S.C.GUPTE, J.

DATE : 19 AUGUST 2016.

P.C. :

. Heard learned Counsel for the parties in these review petitions.

Review Petition (L) No.9 of 2016

2 This Review Petition is taken out by Respondent Nos.2, 4 and 6 to Contempt Petition (L) No.44 of 2015. These parties, who are decedents of Gulamali Shaikh, whose share in the property forming the subject matter of the present suit is to the extent of 31.62%, are original Defendant Nos. 2, 3 and 9 to the suit. It is submitted by Mr. Tajane, learned Counsel, on their behalf that the order passed on the Contempt Petition on 16 December 2015 creates an impression that the directions to abide by the consent terms contained in Clauses-1 and 2 of the order are applicable to all parties to the Contempt Petition. He submits that only those parties, who signed the consent terms, can be made to abide by the consent terms. That is quite clear. The order dated 16 December 2015 is clarified accordingly. The words “to the consent terms”, shall be added after the words “The parties” in Clauses-1 and 2 of the order dated 16 December 2015. So also, Mr. Tajane, learned Counsel submits though the order of 16 December 2015 correctly states that none of the Respondents are averse to the appointment of Court Receiver and collection of revenue by the Receiver, the statement that they are not averse to the payment out of such revenue to the Petitioner is not correct. He submits that his clients oppose such payment. It is clarified that the statement concerning the Respondents not being averse shall be restricted to the appointment of Court Receiver and

collection of revenue by the Receiver. Further statement concerning payment out of such revenue is an order by the Court. Accordingly these words “and payment out of such revenue to the Petitioner.”, shall be substituted by the following sentence.

“In the event, the Court Receiver collects such revenue, the Court receiver will have to make payment to the Petitioner on the basis of the orders passed by this Court on 5 April 2005, 12 November 2008 and 12 September 2014.”

It is clarified that the amount payable to the Petitioners in terms of the order dated 16 December 2015 shall be paid by the Court Receiver from out of the collection received from the property. Such payment, however, shall be on ad-hoc basis and shall be adjusted in the final account from out of the respective shares of the estate of Gulamali Shaikh coming to the Petitioners.

Review Petition (L) No.11 of 2016

3 This Review Petition is filed by the other sharers of the property, namely, co-sharers other than the branch of Gulamali Shaikh, who hold between them 68.38 % of share in the subject property. Much of the grievance of the review petitioners is addressed on account of the clarification issued in Review Petition No.9 of 2016 as above. It is also clarified that the payment to be made to the Petitioner in terms of the order dated 16 December 2015 shall come out of 31.62% share of a branch of Gulamali Shaikh and adjusted accordingly in the final accounts to be drawn up between the parties, as mentioned above. In case, any of the others sharers including those from any branch other than Gulamali

Shaikh's branch want to assert their rights to receive revenue from out of the collection made by the Receiver, as in the case of the present Petitioner, it is for them to adopt proper proceedings for such relief. That cannot be a subject matter of the Contempt Petitions, which were disposed of in terms of the order dated 16 December 2015.

Review Petition (L) No.12 of 2016

4 This Review Petition is by two Respondents, who also belongs to the branch of Gulamali Shaikh, who hold 1/13th share each in the share of Gulamali Shaikh. The grievance of these review petitioners is addressed by the order passed in Review Petition (L) No.9 of 2016. The Consent Terms shall be binding only on those parties who are parties to the Consent Terms.

Review Petition (L) No.15 of 2016

5 This review petitioner is also an individual belonging to the branch of Gulamali Shaikh and holds 1/13th share in the property of Gulamali Shaikh. Even his grievances are addressed in terms of the clarifications issued above. No further clarification needs to be issued in this case.

6 Since the Contempt Petitions are disposed of in terms of the order dated 16 December 2015, and as clarified in the present order, the contempt notices issued in the matters are discharged.

(S.C.GUPTE, J.)